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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,934	03/23/2005	Declan Kelly	NL 031165	6611
24737 7590 04/16/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS			EXAMINER	
P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510		DUNN, MISHAWN N		
		ART UNIT	PAPER NUMBER	
			2621	
			MAIL DATE	DELIVERY MODE
			04/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Advisory Action Before the Filing of an Appeal Brief

Application No.		Applicant(s)	
10/528,934		KELLY ET AL.	
	Examiner	Art Unit	
	MISHAWN DUNN	2621	

1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, with places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 4.1.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following prioridos:  a) □ The period for reply expiresmonths from the mailing date of the final rejection.  b) ☑ The period for reply expiresmonths from the mailing date of the final rejection.  Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRML REJECTION. See MFEP 706.07(f).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee names and the second of the final replection of the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as range reduce and the second checked. An expiration of the date of the shortened statutory period for reply originally set in the final Office action; or (2) as range reduce and the second checked. An expiration of the date of the shortened statutory period for reply originally set in the final Office action; or (2) as range reduce and the set of the final rejection.  STOCE OF APPEAL.  If the Notice of Appeal was filed on A brief in compliance with 37 CFR 4.137(e)), to avoid disminisal of the appeal. Since a Notice of Appeal was the been filed, any reply must be filed within the time period set forth in 37 CFR 4.137(e).  MENDIMENTS  MENDIMENTS  MENDIMENTS  MENDIMENTS  MENDIMENTS  MENDIMENTS  MENDIMENTS  MENDIMENTS	
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, with places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 4.1.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following prioridos:  a) □ The period for reply expiresmonths from the mailing date of the final rejection.  b) ☑ The period for reply expiresmonths from the mailing date of the final rejection.  Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRML REJECTION. See MFEP 706.07(f).  Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee names and the second of the final replection of the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as range reduce and the second checked. An expiration of the date of the shortened statutory period for reply originally set in the final Office action; or (2) as range reduce and the second checked. An expiration of the date of the shortened statutory period for reply originally set in the final Office action; or (2) as range reduce and the set of the final rejection.  STOCE OF APPEAL.  If the Notice of Appeal was filed on A brief in compliance with 37 CFR 4.137(e)), to avoid disminisal of the appeal. Since a Notice of Appeal was the been filed, any reply must be filed within the time period set forth in 37 CFR 4.137(e).  MENDIMENTS  MENDIMENTS  MENDIMENTS  MENDIMENTS  MENDIMENTS  MENDIMENTS  MENDIMENTS  MENDIMENTS	The MAILING DATE of this communication appears on the cover sheet with the correspondence address
application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:  a) The period for reply expiresmonths from the mailing date of the final rejection.  b) The period for reply expiresmonths from the mailing date of the final rejection.  Examiner Note: if Not is checked, check either box (a) or (b), ONLY CHECK BOX (b) WHAN THE FIRST REPLY WEST.  Examiner Note: if Not is checked, since there box (a) or (b), ONLY CHECK BOX (b) WHAN THE FIRST REPLY WEST.  Examiner may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee nave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if simely filed, soft of Appeal appear them adjustment. See 37 CFR 1.704(a).  C) The Correct place of Appeal was filed on	THE REPLY FILED 08 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.
The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later, in no event, however, will be statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  Examiner Note: 1 box 1 is checked, check either tox (a) or (b), ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MFEP 706.070; Discovering the period of vertices of the period	application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time
no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  Examiner Note: If box 15 is checked, check lither box (a) or (b), ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).  MONTHS OF THE SEE AND SEE AN	a) The period for reply expiresmonths from the mailing date of the final rejection.
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.176(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (a) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, nay reduce any earned patent term adjustment. See 37 CFR 1.704(b).  **ONTICE OF APPEAL**  **ONTICE OF	no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO
2	Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filled is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filled is the date for purposes of determining the period of extension amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely flied, may reduce any examed patent term adjustment. See 37 CFR 1.704(b).
filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).  MENDMENTS     American   Ameri	
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal, and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: See Continuation Sheet (See 37 CFR 1.116 and 4.1.33(a)).  ↑ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  ↑ Applicant's reply has overcome the following rejection(s):	filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal, and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.  NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).  ↑ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  ↑ Applicant's reply has overcome the following rejection(s):	3. X The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
appeal; and/or  (d)	<ul><li>(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);</li></ul>
NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).    The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).   Applicants reply has overcome the following rejection(s):	
to the amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).	
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S  Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  Pro purposes of appeal, the proposed amendment(s): a)	
non-allowable claim(s).  Now the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or vill be) as follows.  Claim(s) allowed:  Claim(s) objected: 12-and 4-10  Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE  Solim(s) objected: 12-and 4-10  Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE  Solim(s) objected: 12-and 4-10  Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE  Solim(s) objected: 12-and 4-10  Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE  Solim(s) objected: 12-and 4-10  Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE  Solim(s) objected: 12-and 4-10  Objected: 12-and 4-10  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence fielded to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(f).  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  **EQUEST FOR RECONSIDERATION/OTHER**  This Tran/  The tattached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).  (Thai Tran/	
how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) withdrawn from consideration:  AFFIDAVIT OR OTHER EVIDENCE  Image: Complete the affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e)  Image: Complete the affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence filed for vercome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  ***EQUEST FOR RECONSIDERATION/OTHER** The review of the application in condition for allowance because:	non-allowable claim(s).
Claim(s) rejected: 1.2 and 4-10. Claim(s) withdrawn from consideration:	how the new or amended claims would be rejected is provided below or appended.  The status of the claim(s) is (or will be) as follows:  Claim(s) allowed:
AFIDANT OR OTHER EVIDENCE    A	Claim(s) rejected: <u>1,2 and 4-10</u> .
8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.  12. ☐ The request for RECONSIDERATION/OTHER  11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)	
entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why is in encessary and was not earlier presented. See 37 CFR 413.3(d)(1).  10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.   REQUEST FOR RECONSIDERATION/OTHER  11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  12. Note the attached Information Dischosure Statement(s). (PTO/SB/08) Paper No(s)  7. Thai Tran/	8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and
REQUEST FOR RECONSIDERATION/OTHER	
12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s)  13. Other:  /Thai Tran/	10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER
13.	11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
	12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) 13. Uher:
Supervisory Paterit Examiner, Art Unit 2021	/Thai Tran/ Supervisory Patent Examiner, Art Unit 2621

Continuation of 3. NOTE: Amended claims raise new issue and require further search and consideration.